

Atty. Docket No. LMND.P098C

PATENT

RECEIVED  
CENTRAL FAX CENTER

APR 27 2004

## IN THE UNITED STATES PATENT OFFICE

In Re Patent Application of:

Matthew R. Selmon, et al.

Application No. 09/835,043

Filed: April 13, 2001

For: METHODS AND APPARATUS FOR  
TREATING VASCULAR OCCLUSIONS

OFFICIAL

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION IN VIEW OF A  
PRIOR-ISSUED PATENT

Sir:

LuMend, Inc., the owner of the entire right, title and interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior-issued Patent No. 6,508,825 and Patent No. 6,599,304. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior-issued patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior-issued patents, as presently shortened by any terminal disclaimer, in the event that the prior-issued patents later: expire for failure to pay a maintenance fee, are held unenforceable, are found invalid by a court of competent jurisdiction, are statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, have all claims canceled by a reexamination certificate, are reissued, or are in any manner terminated prior to the expiration of their full statutory term as presently shortened by any terminal disclaimer.

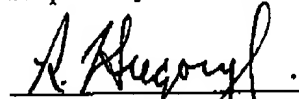
The above disclaimer is being made in view of section 804.02, subpart II of the Manual of Patent Examining Procedure, July 1998, which provides in part:

The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

Authorization is hereby given to charge \$55.00 to Deposit Account No. 501914 to cover the Terminal Disclaimer fee under 37 CFR 1.20(d) for a Small Entity. Authorization is hereby given to charge any additional fees which may be required in connection with this submission to Deposit Account No. 501914.

Respectfully submitted,

Date: 4-27-2004



Richard L. Gregory Jr., Reg. No. 42,607  
SHEMWELL GREGORY & COURTNEY LLP  
Telephone (408) 236-6646